BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2014-346-WS

IN RE:	Application of Daufuskie Island Utility)
	Company, Incorporated for Approval of)
	An Increase for Water and Sewer Rates,)
	Terms and Conditions-Second Remand)
		_)

DIUC'S SUPPLEMENTAL RESPONSES TO ORS'S FIRST CONTINUING REQUEST FOR PRODUCTION OF THE SECOND REMAND AND

DIUC'S RESPONSES TO ORS'S SECOND CONTINUING REQUESTS FOR PRODUCTION OF THE SECOND REMAND WITH OBJECTIONS

TO: ANDREW M. BATEMAN, ESQUIRE, ATTORNEY FOR THE S.C. OFFICE OF REGULATORY STAFF ("ORS")

Daufuskie Island Utility Company, Inc. ("DIUC") hereby supplements its Responses to The South Carolina Office of Regulatory Staff's ("ORS") First Continuing Request for Production of the Second Remand and provides these Responses to ORS's Second Continuing Request for Production of the Second Remand.

REQUEST 1-1

Please provide all documents that support Rate Case Expenses of \$269,356 as identified in the Second Rehearing Direct Testimony of John F. Guastella (p. 17, l. 6) including, but not limited to, the calculation, reconciliation and vendor invoices.

(a) Please provide all documentation to demonstrate the invoices that are included in the amount of \$269,356 have been paid by DIUC.

RESPONSE:

DIUC objects to this Request because it is unduly burdensome and because it is imposed in direct contradiction of rulings of the South Carolina Supreme Court. DIUC further objects because the Request imposes a higher level of scrutiny and an increased burden of production upon DIUC in addition to the extensive documentation DIUC has already provided to ORS and to the Commission regarding DIUC's Rate Case Expenses. By requesting more information about the rate case payments to Guastella Associates ("GA"), ORS is again engaging in the precise conduct

rejected by the Supreme Court in the recent appeal of the Commission's Order on Rehearing. Addressing this issue, the Court ruled:

Additionally, in contrast to the commission's assessment of the invoices in its order after the initial hearing, the commission heavily scrutinized the format of the Guastella invoices on remand. The commission's order on remand provides, "The Commission agrees with ORS.... The evidence shows that a large sum of what DIUC seeks was based on invoices that could not be verified." The commission's order denying DIUC's motion for reconsideration also provides, "ORS ... completed a thorough review of all invoices from Guastella Associates, and found that they 'contained mathematical errors, lacked sufficient detail, and/or did not appear to be paid." However, the commission expressed these concerns with the invoices only in its evaluation on remand. The commission's harsher treatment of the *same* invoices on remand—of which rate case expenses were previously awarded—convinces us the commission itself employed a retaliatory standard of scrutiny.

DIUC v. S.C. Office Reg. Staff, 427 S.C. 458, 462-3, 832 S.E.2d 572, 574 (2019), reh'g denied (Sept. 27, 2019) (hereinafter "DIUC II"). The Court specifically rejected the Commission's adoption on remand of ORS's position that the costs attributable to GA for rate case work required further documentation to verify they had been paid. The Court was clear in its assessment of the higher standard ORS now seeks again to impose upon these same invoices:

...these retaliatory actions by ORS are deeply troubling. We rightfully demand more of government representatives—like ORS—than such an unprofessional approach to the legitimate financial interests of South Carolina businesses, *and* of South Carolina utility ratepayers. Likewise, we expect more respect for the rulings of this Court that administrative officers exhibit when they retaliated against parties who prevail against them on appeal.

DIUC II, 427 S.C. at 460. In fact, the higher standard ORS seeks to impose and the burden upon DIUC to respond to discovery and produce additional documents now is even more harsh than before. It should also be noted that the information sought is still absolutely irrelevant as to whether DIUC actually incurred the rate case expenses at issue.

Subject to and preserving its objections, DIUC responds as follows:

Documents supporting the Rate Case Expenses sought by DIUC were produced with DIUC's Responses to Office of Regulatory Staff's First Continuing Audit Information Request in Proceeding on Remand dated October 27, 2017, and Attachment to ORS 1-12 Rate Case Expenses therewith produced. DIUC also previously provided ORS and the Commission support for its requested Rate Case Expenses, through testimony and exhibits. *See* Transcript of Proceedings (October 28, 2015), Transcript of Proceedings (December 6 and 7, 2017), Prefiled Second Rehearing

Testimony of John F. Guastella (June 16, 2020). DIUC incorporates and relies upon these documents and transcripts.

DIUC's Responses to ORS's First Continuing Request for Production of the Second Remand dated July 10, 2020, provided to ORS a one-page chart entitled GA Rate Case Invoices and Payments to Date and stated additional testimony and documents may also be provided as this second rehearing proceeding continues, including future testimony, both prefiled and live testimony, and exhibits. *See* Docket #292711, incorporated herein as if restated in its entirety.

Also, attached please find DIUC Response Attachment 2-1.

REQUEST 2-1

In reference to the one-page chart labeled as "GA Rate Case Invoices and Payments to Date" provided by DIUC in response to ORS Request 1-1, please provide the following information and documents for <u>each</u> of the 27 payments made by DIUC and listed in the one-page chart:

- (a) A copy of the bank statement for the applicable month in which the payment cleared the bank to demonstrate the payments were completed. Please highlight on each bank statement the payments for the invoices.
- (b) If any of the invoices were aggregated into a single payment, provide a listing of the invoice groupings (that foot to a total) to assist in tracking the payment to the bank statement.
- (c) Identify if DIUC paid a late fee, surcharge, penalty or interest for which it now seeks recovery from its ratepayers. If a late fee, surcharge, penalty, or interest was paid, for which DIUC now seeks recovery from its ratepayers, provide a copy of the invoice with the late fee, surcharge, penalty or interest amount listed.
- (d) If DIUC paid a late fee, surcharge, penalty or interest for which it now seeks recovery from its ratepayers, provide the executed agreement that authorizes the late fee, surcharge, penalty, or interest.
- (e) Name and title of the individual responsible for the approval of the invoices for payment.
- (f) Name and title of the individual responsible for processing the payment. RESPONSE:

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As to (a) and (b), attached please find DIUC Response Attachment 2-1.

As to (c) and (d), there were no late fees, surcharges, penalties, or interest.

As to (e) and (f), John Guastella, President of GA, and Michal Guastella, Vice President of GA, are responsible for approval and payment of all expenses pursuant to the Management Agreement which is, by its terms, between GA and Daufuskie Island Utility Company, Inc. ("Company" or "DIUC"), the Company's parent corporation, Daufuskie Island Utility Holding Company, LLC ("Parent") and the Parent's individual stockholders, together with the Company's, Parent's and Stockholders' heirs, assigns and successors (collectively, the Company, Parent and Stockholders therein referred to as "Clients").

REQUEST 2-2

Please provide an explanation for why DIUC has not paid the following invoices:

- (a) #333 \$ 2,325.00
- (b) #335 \$ 9,700.00
- (c) #337 \$10,351.25

RESPONSE:

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Payments to Date and stated additional testimony and documents may also be provided as this second rehearing proceeding continues, including future testimony, both prefiled and live testimony, and exhibits. *See* Docket #292711, incorporated herein as if restated in its entirety.

DIUC further states that payments of all DIUC expenses and capital requirements are made according to cash flow, always prioritizing the provision of adequate service to the customers.

Respectfully submitted,

/s/ Thomas P. Gressette Jr.

Thomas P. Gressette, Jr. Direct: (843) 727-2249

Email: Gressette@WGFLLAW.com

G. Trenholm Walker Direct: (843) 727-2208

Email: Walker@WGFLLAW.com

WALKER GRESSETTE FREEMAN & LINTON, LLC

Mail: P.O. Box 22167, Charleston, SC 29413 Office: 66 Hasell Street, Charleston, SC 29401

<u>Phone</u>: (843) 727-2200

August 7, 2020 Charleston, South Carolina

Attachments:

Verification

DIUC Response Attachment 2-1

VERIFICATION

I, John F. Guastella, General Manager of Daufuskie Island Utility Company, hereby affirm that the foregoing DIUC'S SUPPLEMENTAL RESPONSES TO ORS'S FIRST CONTINUING REQUEST FOR PRODUCTION OF THE SECOND REMAND AND RESPONSES TO ORS'S SECOND CONTINUING REQUEST FOR PRODUCTION OF THE SECOND REMAND WITH OBJECTIONS are true and accurate to the best of my knowledge based on my understanding of the questions.

John F. Guastella

SWORN to before me this ______ day of July, 2020.

Notary Public for Rain Broch FL.

My Commission Expires: 9-12-10-10

Notary Public State of Florida Robert Blauvelt My Commission GG032768 Expires 09/22/2020

CERTIFICATE OF SERVICE

This is to certify that on August 7, 2020, I caused to be served upon the counsel of record named below a copy of the foregoing DIUC'S SUPPLEMENTAL RESPONSES TO ORS'S FIRST CONTINUING REQUEST FOR PRODUCTION OF THE SECOND REMAND AND RESPONSES TO ORS'S SECOND CONTINUING REQUEST FOR PRODUCTION OF THE SECOND REMAND WITH OBJECTIONS via electronic mail, as indicated. A copy of the Responses were also filed via the Commission's DMS.

Andrew M. Bateman, Esq. (abateman@ors.sc.gov)
Jeff Nelson, Esq. (jnelson@ors.sc.gov)
John J. Pringle, Jr., Esq. (jack.pringle@arlaw.com)
John F. Beach, Esq. (john.beach@arlaw.com)

/s/ Thomas P. Gressette Jr.
Thomas P. Gressette, Jr.

GA Rate Case Invoices and Payments to Date

					Bank	Reference
GA Consulting - Rate Case Docket No 2014-346-WS	Invoice No.		<u>Paid</u>		Satement	Page
Invoiced 7.10.14	133	\$ 1,612.50	12.1.14			
Invoiced 9.5.14	139	\$ 16,687.50	12.1.14	\$	23,430.00	2
Invoiced 10.14.14	145	\$ 5,130.00	12.1.14			
Invoiced 11.11.14	151	\$ 13,122.50	8.22.18			
Invoiced 12.9.14	165	\$ 14,600.00	8.22.18	1		
Invoiced 1.5.15	170	\$ 19,932.50	8.22.18	1		
Invoiced 2.10.15	179	\$ 25,239.02	8.22.18	1		
Invoiced 3.6.15	184	\$ 15,692.50	8.22.18			
Invoiced 4.8.15	192	\$ 4,792.50	8.22.18	\$	271,979.00	3
Invoiced 5.20.15	204	\$ 17,992.50	8.22.18	1		
Invoiced 6.5.15	209	\$ 19,067.48	8.22.18			
Invoiced 7.1.15	211	\$ 53,810.00	8.22.18			
Invoiced 8.10.15	215	\$ 67,860.00	8.22.18			
Invoiced 10.14.15	223	\$ 19,870.00	8.22.18			
Invoiced 11.9.15	228	\$ 82,695.34	10.10.19	\$	82,695.34	4
Invoiced 12.11.15	232	\$ 37,812.50	11.16.19			
Invoiced 1.6.16	236	\$ 17,412.50	11.16.19	\$	55,225.00	5
Invoiced 2.4.16	242	\$ 14,652.50	3.18.20	\$	14,652.50	6
Invoiced 3.12.16	247	\$ 3,772.50	3.26.20	\$	3,772.50	6
Invoiced 5.16.16	259	\$ 5,562.50	3.26.20	\$	5,562.50	6
Invoiced 6.21.16	263	\$ 8,522.50	3.26.20	\$	8,522.50	6
Invoiced 7.13.16	269	\$ 5,617.50	3.26.20	\$	5,617.50	6
Invoiced 8.12.16	274	\$ 2,537.50	3.26.20	\$	2,537.50	6
Invoiced 9.6.16	277	\$ 15,357.50	3.26.20	\$	15,357.50	6
Invoiced 11.18.16	288	\$ 1,307.50	6.26.20			
Invoiced 1.9.17	292	\$ 22,117.50	6.26.20	\$	31,250.00	7
Invoiced 7.17.17	327	\$ 7,825.00	6.26.20			
Invoiced 8.18.17	333	\$ 2,325.00				
Invoiced 9.15.17	335	\$ 9,700.00				
Invoiced 10.17.17	337	\$ 10,351.25				
Total as of November 1, 2017		\$ 542,978.09	•			
Amoujnt Paid to date		\$ 520,601.84				

Note: Does not include subsequent billings.

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Page 4 of 4 36/E00/0175/0 /16 1660 12/31/2014

Account Statement

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SUNTRUST BANK PO BOX 305183 NASHVILLE TN 37230-5183 Page 3 of 3 36/E00/0175/0/16 1660 08/31/2018

Account Statement

SUNTRUST

08/22

271,979.00

ONLINE BANKING TRANSFER TO 0175

1694

Page 2 of 3 36/E00/0175/0/16 1660 10/31/2019

Account Statement

SUNTRUST

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82,695.34

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SUNTRUST

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Account Statement

SUNTRUST

03/18	14,652.50	ONLINE BANKING TRANSFER TO 0175 1000159151694
03/26	3,772.50	ONLINE BANKING TRANSFER TO 0175 1694
03/26	5,562.50	ONLINE BANKING TRANSFER TO 0175 1000 51694
03/26	8,522.50	ONLINE BANKING TRANSFER TO 0175
03/26	5.617.50	ONLINE BANKING TRANSFER TO 0175
03/26	2,537,50	ONLINE BANKING TRANSFER TO 0175
03/26	15,357.50	ONLINE BANKING TRANSFER TO 0175

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SUNTRUST

 06/26
 1,307.50

 06/26
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 7,825.00

ONLINE BANKING TRANSFER TO 0175 11694
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